

**MCDERMOTT, WILL & EMERY**  
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Date: March 30, 2004 Time Sent: \_\_\_\_\_

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**FROM:** Arthur J. Steiner Direct Phone: (202) 756-8605

**E-Mail:** asteiner@MWE.com

**Sent By:** L. Renee Douglas Direct Phone: (202) 756-8393

**Client/Matter/Tkpr:** 50212-186 Original Follow by Mail: No

Number of Pages, Including Cover: 19

**Re:** Serial No. 09/764,254

**MESSAGE:**

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PAGE 1/19 \* RCVD AT 3/30/2004 2:31:07 PM [Eastern Standard Time] \* SVR:USPTO-EFXXRF-1/25 \* DNIS:2731626 \* CSID:202 778 8087 \* DURATION (mm-ss):06-42

**OFFICIAL**

Docket No.: 50212-186

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

: Customer Number: 20277

Takemi HASEGAWA, et al.

: Confirmation Number: 5674

Serial No.: 09/764,254

: Group Art Unit: 2839

Filed: January 19, 2001

: Examiner: C. Prasad

For: OPTICAL FIBER

**RECEIVED**  
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Technology Center 2800**RESPONSE TO NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION**

Mail Stop  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REMARKS**

Applicants are in receipt of a Notice of Improper Request for Continued Examination (RCE) on form PTO-2051 dated March 26, 2004. The Notice states that the RCE was not accompanied by a submission as required by 37 C.F.R. §1.114. This Notice is in error.

Firstly, a proper Request for Continued Examination (RCE) together with an Amendment pursuant to 37 C.F.R. §1.114 was, indeed, filed and received by the U.S. Patent and Trademark Office on December 2, 2003. This is confirmed by Exhibit A hereto which is a copy of the appropriate Patent Application Information Retrieval (PAIR) data. A copy of the RCE and Amendment are attached hereto as Exhibit B together with a Petition for Extension of Time.

In response to the proper RCE together with an Amendment pursuant to 37 C.F.R. §1.114, Applicants received an Advisory Action dated March 12, 2004, indicating that the Amendment

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would not be entered. Applicants immediately telephoned Examiner Prasad who acknowledged that an RCE had been filed and an Amendment filed. In fact, a facsimile was sent to Examiner Prasad on March 22, 2004 including a copy of the PAIR data and a copy of the RCE, Petition for Extension and Amendment.

Now comes Ms. Dawkins with a Notice of Improper Request for Continued Examination. Applicants are at a loss to understand how the PAIR retrieval system reflects receipt of the RCE and Amendment, the Examiner only receives the Amendment and Ms. Dawkins only receives the RCE. Manifestly, a proper RCE with Amendment were filed and the record should be so clarified. Applicants hereby request clarification of the record.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



Arthur J. Steiner  
Registration No. 26,106

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Date: March 30, 2004

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I HEREBY CERTIFY THAT THIS PAPER IS BEING  
FACSIMILE TRANSMITTED TO THE PATENT AND  
TRADEMARK OFFICE ON THE DATE SHOWN BELOW.

L. Rence Douglas  
TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION  
L. Rence Douglas 3-30-04  
SIGNATURE DATE

# EXHIBIT A

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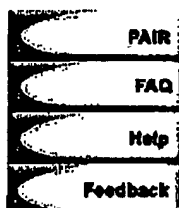
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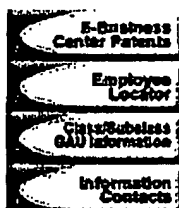
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## PATENT APPLICATION INFORMATION RETRIEVAL



## Other Links



Search results for application number:09/764,254			
Application Number:	09/764,254	Customer Number:	-
Filing or 371(c) Date:	01-19-2001	Status:	Advisory Action Mailed
Application Type:	Utility	Status Date:	03-11-2004
Examiner Name:	PRASAD, CHANDRIKA	Location:	ELECTRONIC
Group Art Unit:	2839	Location Date:	03-05-2004
Confirmation Number:	5674	Earliest Publication No:	US 2001-001A1
Attorney Docket Number:	50212-186	Earliest Publication Date:	12-27-2001
Class/ Sub-Class:	385/127	Patent Number:	-
First Named Inventor:	Takemi Hasegawa, Yokohama-shi, (JP)	Issue Date of Patent:	-
Title Of Invention:	MICROSTRUCTURED OPTICAL FIBER		

Select Search Option

Continuity Data

Search

File History		
Number	Date	Contents Description
39	03-12-2004	Mail Advisory Action (PTOL - 303)
38	03-08-2004	Advisory Action (PTOL-303)
37	02-23-2002	Reference capture on IDS
36	03-06-2004	Date Forwarded to Examiner
35	12-02-2003	Amendment after Final Rejection
34	12-02-2003	Request for Extension of Time - Granted
33	12-02-2003	Workflow - Request for RCE - Begin
32	10-30-2003	Mail Advisory Action (PTOL - 303)
31	10-29-2003	Advisory Action (PTOL-303)
30	10-24-2003	Date Forwarded to Examiner
29	10-16-2003	Amendment after Final Rejection
28	08-08-2003	Mail Final Rejection (PTOL - 326)
27	08-04-2003	Final Rejection
26	07-24-2003	Date Forwarded to Examiner
25	07-07-2003	Response after Non-Final Action
24	04-14-2003	Mail Non-Final Rejection
23	04-10-2003	Non-Final Rejection
22	04-04-2003	Date Forwarded to Examiner
21	03-31-2003	Amendment after Final Rejection
20	12-31-2002	Mail Final Rejection (PTOL - 326)

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19	12-30-2002	Final Rejection
18	12-04-2002	Date Forwarded to Examiner
17	11-26-2002	Response after Non-Final Action
16	08-27-2002	Mail Non-Final Rejection
15	08-26-2002	Non-Final Rejection
14	12-11-2001	Case Docketed to Examiner in GAU
13	12-03-2001	Case Docketed to Examiner in GAU
12	09-18-2001	Case Docketed to Examiner in GAU
11	01-19-2001	Information Disclosure Statement (IDS) Filed
10	07-06-2001	Request for Foreign Priority (Priority Papers May Be Included)
9	07-06-2001	Information Disclosure Statement (IDS) Filed
8	07-08-2001	Supplemental Papers - Oath or Declaration
7	08-15-2001	Application Dispatched from OIPE
6	05-16-2001	Application is Now Complete
5	05-23-2001	Receipt of all Acknowledgement Letters
4	05-16-2001	Notice Mailed--Application Incomplete--Filing Date Assigned
3	05-15-2001	Correspondence Address Change
2	02-02-2001	FW Scan & PACR Auto Security Review
1	01-19-2001	Initial Exam Team nn

## EXHIBIT B

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Applicant: Takemi HASEGAWA, et al. Docket No. 50212-188

Title: OPTICAL FIBER Serial/Reg./Patent No. 09/764,254

Date Sent: 12/2/2003 ☒ Hand Carried ☐ Fax ☐ Electronic ☐ Cert. of Mailing ☐ Express Mail No. \_\_\_\_\_

☐ Transmittal Letter

☐ New Patent App ☐ Utility ☐ Design ☐ Cont. ☐ CIP ☐ Div. ☐ PCT ☒ RCE ☐ Prov

☐ Other: \_\_\_\_\_

\_\_\_\_\_ pages of Specification

\_\_\_\_\_ pages of Claims

\_\_\_\_\_ pages of Abstract

\_\_\_\_\_ pages of Formal/Informal Drawings

☐ Small Entity ☐ Large Entity

☐ Declaration/Power of Attorney

☐ Recordation of Assignment/Security Agreement

☐ Information Disclosure Statement

\_\_\_\_\_ Form PTO 1449

\_\_\_\_\_ copies of cited references

☐ Preliminary Amendment

☐ Response to Missing Parts Notice

☐ Resp. to Notice to Correct App. Papers

☐ Certified Copy of Priority Doc.

☐ Claim for Convention Priority

☒ Response/Amendment to Office Action of August 8, 2003

☒ Request for 1 month Extension of Time

☐ Letter submitting \_\_\_\_\_ pages of drawings

☐ Req. for Approval of Drawing Amendments

☐ Req. for Oral Hearing

☐ Not. of Appeal ☐ Appeal Brief ☐ Reply Brief

☐ Rule 312 Amendment/Letter

☐ Req. for Acknowledgement of Cited Art

☐ Issue Fee

☐ Publication Fee

☐ Req. for Certificate of Correction

☐ Maintenance Fee for \_\_\_\_\_ years after grant

☐ Fee Address Indication Form

☐ Terminal Disclaimer

☐ Petition to Commissioner

☐ Status Inquiry

☐ Other \_\_\_\_\_

Check for \$ \_\_\_\_\_ ☒ Charge Deposit Acct. 5004176 880.00 Atty Init. AJS Tkpr. # 4236 Secy. or PL L. Renee Douglas

CMS Descr.: 1-\$770.00 6-\$110.00

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